

Introduced by Senator Ackerman

February 19, 2004

An act to amend Sections 290, 647, and 647.7 of the Penal Code, relating to disorderly conduct.

LEGISLATIVE COUNSEL'S DIGEST

SB 1484, as introduced, Ackerman. Disorderly conduct.

Existing law makes it a misdemeanor for anyone to look through a hole or opening or to view, by means of any instrumentality, into the interior of any of specified rooms or any other interior place where the occupant has a reasonable expectation of privacy, with the intent to invade that privacy.

This bill would add bedrooms to the enumerated rooms to which this prohibition is applicable.

Existing law also makes it a misdemeanor for a person to secretly videotape, film, photograph, or record by electronic means, another, identifiable person under or through his or her clothing, for the purpose of viewing the body of, or the undergarments worn by, that other person, without the consent or knowledge of that other person, with the intent to arouse, appeal to, or gratify the lust, passions, or sexual desires of that person and invade the privacy of that other person, under circumstances in which that other person has a reasonable expectation of privacy. Existing law provides that this and the above-described offense can be punished by imprisonment in a county jail not exceeding six months, by a fine not exceeding \$1,000, or by both that fine and imprisonment, but authorizes a longer jail term of one year if the offense is committed after one or more prior convictions for these offenses or for the offense of peeking into an inhabited structure while loitering, wandering, or prowling upon private property.

This bill would make it a misdemeanor to use a concealed camcorder, motion picture camera, or photographic camera of any type, to secretly videotape, film, photograph, or record by electronic means, another, identifiable person who may be in a state of full or partial undress, for the purpose of viewing the body of, or the undergarments worn by, that other person, without the consent or knowledge of that other person, in the interior of a bedroom, bathroom, changing room, fitting room, dressing room, or tanning booth, or the interior of any other area in which that other person has a reasonable expectation of privacy, with the intent to invade the privacy of that other person. This new offense would be punished exactly as are the above-described offenses, except that the maximum fine would be \$5,000 if the offense is committed after one or more prior convictions for the same offense, or for an offense referenced above.

By creating a new crime, this bill would impose a state-mandated local program.

Existing law requires offenders who have been convicted of any of a specified group of sexual offenses to register with local law enforcement agencies and makes it a felony to willfully fail to register. Existing law also requires juvenile offenders as to whom a petition has been sustained for the commission of any of a different set of sexual offenses to register with local law enforcement agencies and makes it a felony to willfully fail to register. Existing law details these requirements, imposes other related and conforming requirements, and specifies penalties for various types of violations of these provisions.

This bill would add to the group of sexual offenses that, upon conviction, require registration pursuant to these provisions the offenses involving viewing with an instrumentality or videotaping described above, if the person has been previously convicted of one of those offenses.

By requiring local authorities to register more offenders, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.



This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 290 of the Penal Code is amended to
2 read:
3 290. (a) (1) (A) Every person described in paragraph (2),
4 for the rest of his or her life while residing in, or, if he or she has
5 no residence, while located within California, or while attending
6 school or working in California, as described in subparagraph (G),
7 shall be required to register with the chief of police of the city in
8 which he or she is residing, or if he or she has no residence, is
9 located, or the sheriff of the county if he or she is residing, or if he
10 or she has no residence, is located, in an unincorporated area or city
11 that has no police department, and, additionally, with the chief of
12 police of a campus of the University of California, the California
13 State University, or community college if he or she is residing, or
14 if he or she has no residence, is located upon the campus or in any
15 of its facilities, within five working days of coming into, or
16 changing his or her residence or location within, any city, county,
17 or city and county, or campus in which he or she temporarily
18 resides, or, if he or she has no residence, is located.
19 (B) If the person who is registering has more than one residence
20 address or location at which he or she regularly resides or is
21 located, he or she shall register in accordance with subparagraph
22 (A) in each of the jurisdictions in which he or she regularly resides
23 or is located. If all of the addresses or locations are within the same
24 jurisdiction, the person shall provide the registering authority with
25 all of the addresses or locations where he or she regularly resides
26 or is located.
27 (C) If the person who is registering has no residence address,
28 he or she shall update his or her registration no less than once every
29 60 days in addition to the requirement in subparagraph (A), on a



1 form as may be required by the Department of Justice, with the
2 entity or entities described in subparagraph (A) in whose
3 jurisdiction he or she is located at the time he or she is updating the
4 registration.

5 (D) Beginning on his or her first birthday following
6 registration or change of address, the person shall be required to
7 register annually, within five working days of his or her birthday,
8 to update his or her registration with the entities described in
9 subparagraph (A). At the annual update, the person shall provide
10 current information as required on the Department of Justice
11 annual update form, including the information described in
12 subparagraphs (A) to (C), inclusive, of paragraph (2) of
13 subdivision (e).

14 (E) In addition, every person who has ever been adjudicated a
15 sexually violent predator, as defined in Section 6600 of the
16 Welfare and Institutions Code, shall, after his or her release from
17 custody, verify his or her address no less than once every 90 days
18 and place of employment, including the name and address of the
19 employer, in a manner established by the Department of Justice.

20 (F) No entity shall require a person to pay a fee to register or
21 update his or her registration pursuant to this section. The
22 registering agency shall submit registrations, including annual
23 updates or changes of address, directly into the Department of
24 Justice Violent Crime Information Network (VCIN).

25 (G) Persons required to register in their state of residence who
26 are out-of-state residents employed, or carrying on a vocation in
27 California on a full-time or part-time basis, with or without
28 compensation, for more than 14 days, or for an aggregate period
29 exceeding 30 days in a calendar year, shall register in accordance
30 with subparagraph (A). Persons described in paragraph (2) who
31 are out-of-state residents enrolled in any educational institution in
32 California, as defined in Section 22129 of the Education Code, on
33 a full-time or part-time basis, shall register in accordance with
34 subparagraph (A). The place where the out-of-state resident is
35 located, for purposes of registration, shall be the place where the
36 person is employed, carrying on a vocation, or attending school.
37 The out-of-state resident subject to this subparagraph shall, in
38 addition to the information required pursuant to subdivision (e),
39 provide the registering authority with the name of his or her place
40 of employment or the name of the school attended in California,

1 and his or her address or location in his or her state of residence.
 2 The registration requirement for persons subject to this
 3 subparagraph shall become operative on November 25, 2000. The
 4 terms “employed or carries on a vocation” include employment
 5 whether or not financially compensated, volunteered, or
 6 performed for government or educational benefit.

7 (2) The following persons shall be required to register pursuant
 8 to paragraph (1):

9 (A) Any person who, since July 1, 1944, has been or is hereafter
 10 convicted in any court in this state or in any federal or military
 11 court of a violation of Section 207 or 209 committed with intent
 12 to violate Section 261, 286, 288, 288a, or 289, Section 220, except
 13 assault to commit mayhem, Section 243.4, paragraph (1), (2), (3),
 14 (4), or (6) of subdivision (a) of Section 261, or paragraph (1) of
 15 subdivision (a) of Section 262 involving the use of force or
 16 violence for which the person is sentenced to the state prison,
 17 Section 264.1, 266, 266c, subdivision (b) of Section 266h,
 18 subdivision (b) of Section 266i, 266j, 267, 269, 285, 286, 288,
 19 288a, 288.5, or 289, Section 311.1, subdivision (b), (c), or (d) of
 20 Section 311.2, Section 311.3, 311.4, 311.10, 311.11, or 647.6,
 21 former Section 647a, subdivision (c) of Section 653f, subdivision
 22 1 or 2 of Section 314, any offense involving lewd or lascivious
 23 conduct under Section 272, or any felony violation of Section
 24 288.2; *or subdivision (k) of Section 647 if previously convicted of*
 25 *a violation of that subdivision;* or any statutory predecessor that
 26 includes all elements of one of the above-mentioned offenses; or
 27 any person who since that date has been or is hereafter convicted
 28 of the attempt to commit any of the above-mentioned offenses.

29 (B) Any person who, since July 1, 1944, has been or hereafter
 30 is released, discharged, or paroled from a penal institution where
 31 he or she was confined because of the commission or attempted
 32 commission of one of the offenses described in subparagraph (A).

33 (C) Any person who, since July 1, 1944, has been or hereafter
 34 is determined to be a mentally disordered sex offender under
 35 Article 1 (commencing with Section 6300) of Chapter 2 of Part 2
 36 of Division 6 of the Welfare and Institutions Code or any person
 37 who has been found guilty in the guilt phase of a trial for an offense
 38 for which registration is required by this section but who has been
 39 found not guilty by reason of insanity in the sanity phase of the
 40 trial.

1 (D) Any person who, since July 1, 1944, has been, or is
2 hereafter convicted in any other court, including any state, federal,
3 or military court, of any offense that, if committed or attempted in
4 this state, would have been punishable as one or more of the
5 offenses described in subparagraph (A) or any person ordered by
6 any other court, including any state, federal, or military court, to
7 register as a sex offender for any offense, if the court found at the
8 time of conviction or sentencing that the person committed the
9 offense as a result of sexual compulsion or for purposes of sexual
10 gratification.

11 (E) Any person ordered by any court to register pursuant to this
12 section for any offense not included specifically in this section if
13 the court finds at the time of conviction or sentencing that the
14 person committed the offense as a result of sexual compulsion or
15 for purposes of sexual gratification. The court shall state on the
16 record the reasons for its findings and the reasons for requiring
17 registration.

18 (F) (i) Notwithstanding any other subdivision, a person who
19 was convicted before January 1, 1976, under subdivision (a) of
20 Section 286, or Section 288a, shall not be required to register
21 pursuant to this section for that conviction if the conviction was for
22 conduct between consenting adults that was decriminalized by
23 Chapter 71 of the Statutes of 1975 or Chapter 1139 of the Statutes
24 of 1976. The Department of Justice shall remove that person from
25 the Sex Offender Registry, and the person is discharged from his
26 or her duty to register pursuant to the following procedure:

27 (I) The person submits to the Department of Justice official
28 documentary evidence, including court records or police reports,
29 that demonstrate that the person's conviction pursuant to either of
30 those sections was for conduct between consenting adults that was
31 decriminalized; or

32 (II) The person submits to the department a declaration stating
33 that the person's conviction pursuant to either of those sections was
34 for consensual conduct between adults that has been
35 decriminalized. The declaration shall be confidential and not a
36 public record, and shall include the person's name, address,
37 telephone number, date of birth, and a summary of the
38 circumstances leading to the conviction, including the date of the
39 conviction and county of the occurrence.



(III) The department shall determine whether the person's conviction was for conduct between consensual adults that has been decriminalized. If the conviction was for consensual conduct between adults that has been decriminalized, and the person has no other offenses for which he or she is required to register pursuant to this section, the department shall, within 60 days of receipt of those documents, notify the person that he or she is relieved of the duty to register, and shall notify the local law enforcement agency with which the person is registered that he or she has been relieved of the duty to register. The local law enforcement agency shall remove the person's registration from its files within 30 days of receipt of notification. If the documentary or other evidence submitted is insufficient to establish the person's claim, the department shall, within 60 days of receipt of those documents, notify the person that his or her claim cannot be established, and that the person shall continue to register pursuant to this section. The department shall provide, upon the person's request, any information relied upon by the department in making its determination that the person shall continue to register pursuant to this section. Any person whose claim has been denied by the department pursuant to this clause may petition the court to appeal the department's denial of the person's claim.

(ii) On or before July 1, 1998, the department shall make a report to the Legislature concerning the status of persons who may come under the provisions of this subparagraph, including the number of persons who were convicted before January 1, 1976, under subdivision (a) of Section 286 or Section 288a and are required to register under this section, the average age of these persons, the number of these persons who have any subsequent convictions for a registerable sex offense, and the number of these persons who have sought successfully or unsuccessfully to be relieved of their duty to register under this section.

(b) (1) Any person who is released, discharged, or paroled from a jail, state or federal prison, school, road camp, or other institution where he or she was confined because of the commission or attempted commission of one of the offenses specified in subdivision (a) or is released from a state hospital to which he or she was committed as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions

1 Code, shall, prior to discharge, parole, or release, be informed of
2 his or her duty to register under this section by the official in charge
3 of the place of confinement or hospital, and the official shall
4 require the person to read and sign any form that may be required
5 by the Department of Justice, stating that the duty of the person to
6 register under this section has been explained to the person. The
7 official in charge of the place of confinement or hospital shall
8 obtain the address where the person expects to reside upon his or
9 her discharge, parole, or release and shall report the address to the
10 Department of Justice. The official shall at the same time forward
11 a current photograph of the person to the Department of Justice.

12 (2) The official in charge of the place of confinement or
13 hospital shall give one copy of the form to the person and shall send
14 one copy to the Department of Justice and one copy to the
15 appropriate law enforcement agency or agencies having
16 jurisdiction over the place the person expects to reside upon
17 discharge, parole, or release. If the conviction that makes the
18 person subject to this section is a felony conviction, the official in
19 charge shall, not later than 45 days prior to the scheduled release
20 of the person, send one copy to the appropriate law enforcement
21 agency or agencies having local jurisdiction where the person
22 expects to reside upon discharge, parole, or release; one copy to the
23 prosecuting agency that prosecuted the person; and one copy to the
24 Department of Justice. The official in charge of the place of
25 confinement or hospital shall retain one copy.

26 (c) (1) Any person who is convicted in this state of the
27 commission or attempted commission of any of the offenses
28 specified in subdivision (a) and who is released on probation, shall,
29 prior to release or discharge, be informed of the duty to register
30 under this section by the probation department, and a probation
31 officer shall require the person to read and sign any form that may
32 be required by the Department of Justice, stating that the duty of
33 the person to register under this section has been explained to him
34 or her. The probation officer shall obtain the address where the
35 person expects to reside upon release or discharge and shall report
36 within three days the address to the Department of Justice. The
37 probation officer shall give one copy of the form to the person,
38 send one copy to the Department of Justice, and forward one copy
39 to the appropriate law enforcement agency or agencies having



1 local jurisdiction where the person expects to reside upon his or her
2 discharge, parole, or release.

3 (2) Any person who is convicted in this state of the commission
4 or attempted commission of any of the offenses specified in
5 subdivision (a) and who is granted conditional release without
6 supervised probation, or discharged upon payment of a fine, shall,
7 prior to release or discharge, be informed of the duty to register
8 under this section in open court by the court in which the person
9 has been convicted, and the court shall require the person to read
10 and sign any form that may be required by the Department of
11 Justice, stating that the duty of the person to register under this
12 section has been explained to him or her. If the court finds that it
13 is in the interest of the efficiency of the court, the court may assign
14 the bailiff to require the person to read and sign forms under this
15 section. The court shall obtain the address where the person
16 expects to reside upon release or discharge and shall report within
17 three days the address to the Department of Justice. The court shall
18 give one copy of the form to the person, send one copy to the
19 Department of Justice, and forward one copy to the appropriate
20 law enforcement agency or agencies having local jurisdiction
21 where the person expects to reside upon his or her discharge,
22 parole, or release.

23 (d) (1) Any person who, on or after January 1, 1986, is
24 discharged or paroled from the Department of the Youth Authority
25 to the custody of which he or she was committed after having been
26 adjudicated a ward of the juvenile court pursuant to Section 602
27 of the Welfare and Institutions Code because of the commission or
28 attempted commission of any offense described in paragraph (3)
29 shall be subject to registration under the procedures of this section.

30 (2) Any person who is discharged or paroled from a facility in
31 another state that is equivalent to the Department of the Youth
32 Authority, to the custody of which he or she was committed
33 because of an offense which, if committed or attempted in this
34 state, would have been punishable as one or more of the offenses
35 described in paragraph (3), shall be subject to registration under
36 the procedures of this section.

37 (3) Any person described in this subdivision who committed an
38 offense in violation of any of the following provisions shall be
39 required to register pursuant to this section:

1 (A) Assault with intent to commit rape, sodomy, oral
2 copulation, or any violation of Section 264.1, 288, or 289 under
3 Section 220.

4 (B) Any offense defined in paragraph (1), (2), (3), (4), or (6) of
5 subdivision (a) of Section 261, Section 264.1, 266c, or 267,
6 paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of,
7 Section 286, Section 288 or 288.5, paragraph (1) of subdivision (b)
8 of, or subdivision (c) or (d) of, Section 288a, subdivision (a) of
9 Section 289, or Section 647.6.

10 (C) A violation of Section 207 or 209 committed with the intent
11 to violate Section 261, 286, 288, 288a, or 289.

12 (4) Prior to discharge or parole from the Department of the
13 Youth Authority, any person who is subject to registration under
14 this subdivision shall be informed of the duty to register under the
15 procedures set forth in this section. Department of the Youth
16 Authority officials shall transmit the required forms and
17 information to the Department of Justice.

18 (5) All records specifically relating to the registration in the
19 custody of the Department of Justice, law enforcement agencies,
20 and other agencies or public officials shall be destroyed when the
21 person who is required to register has his or her records sealed
22 under the procedures set forth in Section 781 of the Welfare and
23 Institutions Code. This subdivision shall not be construed as
24 requiring the destruction of other criminal offender or juvenile
25 records relating to the case that are maintained by the Department
26 of Justice, law enforcement agencies, the juvenile court, or other
27 agencies and public officials unless ordered by a court under
28 Section 781 of the Welfare and Institutions Code.

29 (e) (1) On or after January 1, 1998, upon incarceration,
30 placement, or commitment, or prior to release on probation, any
31 person who is required to register under this section shall
32 preregister. The preregistering official shall be the admitting
33 officer at the place of incarceration, placement, or commitment, or
34 the probation officer if the person is to be released on probation.
35 The preregistration shall consist of all of the following:

36 (A) A preregistration statement in writing, signed by the
37 person, giving information that shall be required by the
38 Department of Justice.

39 (B) The fingerprints and a current photograph of the person.

1 (C) Any person who is preregistered pursuant to this
2 subdivision is required to be preregistered only once.

3 (2) A person described in paragraph (2) of subdivision (a) shall
4 register, or reregister if the person has previously registered, upon
5 release from incarceration, placement, or commitment, pursuant
6 to paragraph (1) of subdivision (a). The registration shall consist
7 of all of the following:

8 (A) A statement in writing signed by the person, giving
9 information as shall be required by the Department of Justice and
10 giving the name and address of the person's employer, and the
11 address of the person's place of employment if that is different
12 from the employer's main address.

13 (B) The fingerprints and a current photograph of the person
14 taken by the registering official.

15 (C) The license plate number of any vehicle owned by,
16 regularly driven by, or registered in the name of the person.

17 (D) Notice to the person that, in addition to the requirements of
18 paragraph (4), he or she may have a duty to register in any other
19 state where he or she may relocate.

20 (E) Copies of adequate proof of residence, which shall be
21 limited to a California driver's license, California identification
22 card, recent rent or utility receipt, printed personalized checks or
23 other recent banking documents showing that person's name and
24 address, or any other information that the registering official
25 believes is reliable. If the person has no residence and no
26 reasonable expectation of obtaining a residence in the foreseeable
27 future, the person shall so advise the registering official and shall
28 sign a statement provided by the registering official stating that
29 fact. Upon presentation of proof of residence to the registering
30 official or a signed statement that the person has no residence, the
31 person shall be allowed to register. If the person claims that he or
32 she has a residence but does not have any proof of residence, he or
33 she shall be allowed to register but shall furnish proof of residence
34 within 30 days of the day he or she is allowed to register.

35 (3) Within three days thereafter, the preregistering official or
36 the registering law enforcement agency or agencies shall forward
37 the statement, fingerprints, photograph, and vehicle license plate
38 number, if any, to the Department of Justice.

39 (f) (1) If any person who is required to register pursuant to this
40 section changes his or her residence address or location, whether

1 within the jurisdiction in which he or she is currently registered or
2 to a new jurisdiction inside or outside the state, the person shall
3 inform, in writing within five working days, the law enforcement
4 agency or agencies with which he or she last registered of the new
5 address or location. The law enforcement agency or agencies shall,
6 within three working days after receipt of this information,
7 forward a copy of the change of address or location information
8 to the Department of Justice. The Department of Justice shall
9 forward appropriate registration data to the law enforcement
10 agency or agencies having local jurisdiction of the new place of
11 residence or location.

12 (2) If the person's new address is in a Department of the Youth
13 Authority facility or a state prison or state mental institution, an
14 official of the place of incarceration, placement, or commitment
15 shall, within 90 days of receipt of the person, forward the
16 registrant's change of address information to the Department of
17 Justice. The agency need not provide a physical address for the
18 registrant but shall indicate that he or she is serving a period of
19 incarceration or commitment in a facility under the agency's
20 jurisdiction. This paragraph shall apply to persons received in a
21 Department of the Youth Authority facility or a state prison or state
22 mental institution on or after January 1, 1999. The Department of
23 Justice shall forward the change of address information to the
24 agency with which the person last registered.

25 (3) If any person who is required to register pursuant to this
26 section changes his or her name, the person shall inform, in person,
27 the law enforcement agency or agencies with which he or she is
28 currently registered within five working days. The law
29 enforcement agency or agencies shall forward a copy of this
30 information to the Department of Justice within three working
31 days of its receipt.

32 (g) (1) Any person who is required to register under this
33 section based on a misdemeanor conviction or juvenile
34 adjudication who willfully violates any requirement of this section
35 is guilty of a misdemeanor punishable by imprisonment in a
36 county jail not exceeding one year.

37 (2) Except as provided in paragraphs (5) and (7), any person
38 who is required to register under this section based on a felony
39 conviction or juvenile adjudication who willfully violates any
40 requirement of this section or who has a prior conviction or



1 juvenile adjudication for the offense of failing to register under this
2 section and who subsequently and willfully violates any
3 requirement of this section is guilty of a felony and shall be
4 punished by imprisonment in the state prison for 16 months, or two
5 or three years.

6 If probation is granted or if the imposition or execution of
7 sentence is suspended, it shall be a condition of the probation or
8 suspension that the person serve at least 90 days in a county jail.
9 The penalty described in this paragraph shall apply whether or not
10 the person has been released on parole or has been discharged from
11 parole.

12 (3) Any person determined to be a mentally disordered sex
13 offender or who has been found guilty in the guilt phase of trial for
14 an offense for which registration is required under this section, but
15 who has been found not guilty by reason of insanity in the sanity
16 phase of the trial, or who has had a petition sustained in a juvenile
17 adjudication for an offense for which registration is required under
18 this section pursuant to subdivision (d), but who has been found
19 not guilty by reason of insanity, who willfully violates any
20 requirement of this section is guilty of a misdemeanor and shall be
21 punished by imprisonment in a county jail not exceeding one year.
22 For any second or subsequent willful violation of any requirement
23 of this section, the person is guilty of a felony and shall be punished
24 by imprisonment in the state prison for 16 months, or two or three
25 years.

26 (4) If, after discharge from parole, the person is convicted of a
27 felony or suffers a juvenile adjudication as specified in this
28 subdivision, he or she shall be required to complete parole of at
29 least one year, in addition to any other punishment imposed under
30 this subdivision. A person convicted of a felony as specified in this
31 subdivision may be granted probation only in the unusual case
32 where the interests of justice would best be served. When
33 probation is granted under this paragraph, the court shall specify
34 on the record and shall enter into the minutes the circumstances
35 indicating that the interests of justice would best be served by the
36 disposition.

37 (5) Any person who has ever been adjudicated a sexually
38 violent predator, as defined in Section 6600 of the Welfare and
39 Institutions Code, and who fails to verify his or her registration
40 every 90 days as required pursuant to subparagraph (E) of

1 paragraph (1) of subdivision (a), shall be punished by
2 imprisonment in the state prison, or in a county jail not exceeding
3 one year.

4 (6) Except as otherwise provided in paragraph (5), and in
5 addition to any other penalty imposed under this subdivision, any
6 person who is required pursuant to subparagraph (C) of paragraph
7 (1) of subdivision (a) to update his or her registration every 60 days
8 and willfully fails to update his or her registration is guilty of a
9 misdemeanor and shall be punished by imprisonment in a county
10 jail not exceeding six months. Any subsequent violation of this
11 requirement that persons described in subparagraph (C) of
12 paragraph (1) of subdivision (a) shall update their registration
13 every 60 days is also a misdemeanor and shall be punished by
14 imprisonment in a county jail not exceeding six months.

15 (7) Any person who fails to provide proof of residence as
16 required by subparagraph (E) of paragraph (2) of subdivision (e),
17 regardless of the offense upon which the duty to register is based,
18 is guilty of a misdemeanor punishable by imprisonment in a
19 county jail not exceeding six months.

20 (8) Any person who is required to register under this section
21 who willfully violates any requirement of this section is guilty of
22 a continuing offense.

23 (h) Whenever any person is released on parole or probation and
24 is required to register under this section but fails to do so within
25 the time prescribed, the parole authority, the Youthful Offender
26 Parole Board, or the court, as the case may be, shall order the
27 parole or probation of the person revoked. For purposes of this
28 subdivision, “parole authority” has the same meaning as
29 described in Section 3000.

30 (i) Except as provided in Sections 290.4 and 290.45, the
31 statements, photographs, and fingerprints required by this section
32 shall not be open to inspection by the public or by any person other
33 than a regularly employed peace officer or other law enforcement
34 officer.

35 (j) In any case in which a person who would be required to
36 register pursuant to this section for a felony conviction is to be
37 temporarily sent outside the institution where he or she is confined
38 on any assignment within a city or county including firefighting,
39 disaster control, or of whatever nature the assignment may be, the
40 local law enforcement agency having jurisdiction over the place



or places where the assignment shall occur shall be notified within a reasonable time prior to removal from the institution. This subdivision shall not apply to any person who is temporarily released under guard from the institution where he or she is confined.

(k) As used in this section, “mentally disordered sex offender” includes any person who has been determined to be a sexual psychopath or a mentally disordered sex offender under any provision which, on or before January 1, 1976, was contained in Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

(l) (1) Every person who, prior to January 1, 1997, is required to register under this section, shall be notified whenever he or she next reregisters of the reduction of the registration period from 14 to five working days. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notification shall be a defense against the penalties prescribed by subdivision (g) if the person did register within 14 days.

(2) Every person who, as a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code, is required to verify his or her registration every 90 days, shall be notified wherever he or she next registers of his or her increased registration obligations. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notice shall be a defense against the penalties prescribed by paragraph (5) of subdivision (g).

(m) The registration provisions of this section are applicable to every person described in this section, without regard to when his or her crimes were committed or his or her duty to register pursuant to this section arose, and to every offense described in this section, regardless of when it was committed.

SEC. 2. Section 647 of the Penal Code is amended to read:

647. Every person who commits any of the following acts is guilty of disorderly conduct, a misdemeanor:

(a) Who solicits anyone to engage in or who engages in lewd or dissolute conduct in any public place or in any place open to the public or exposed to public view.

(b) Who solicits or who agrees to engage in or who engages in any act of prostitution. A person agrees to engage in an act of prostitution when, with specific intent to so engage, he or she

1 manifests an acceptance of an offer or solicitation to so engage,
2 regardless of whether the offer or solicitation was made by a
3 person who also possessed the specific intent to engage in
4 prostitution. No agreement to engage in an act of prostitution shall
5 constitute a violation of this subdivision unless some act, in
6 addition to the agreement, is done within this state in furtherance
7 of the commission of an act of prostitution by the person agreeing
8 to engage in that act. As used in this subdivision, “prostitution”
9 includes any lewd act between persons for money or other
10 consideration.

11 (c) Who accosts other persons in any public place or in any
12 place open to the public for the purpose of begging or soliciting
13 alms.

14 (d) Who loiters in or about any toilet open to the public for the
15 purpose of engaging in or soliciting any lewd or lascivious or any
16 unlawful act.

17 (e) Who loiters or wanders upon the streets or from place to
18 place without apparent reason or business and who refuses to
19 identify himself or herself and to account for his or her presence
20 when requested by any peace officer so to do, if the surrounding
21 circumstances would indicate to a reasonable person that the
22 public safety demands this identification.

23 (f) Who is found in any public place under the influence of
24 intoxicating liquor, any drug, controlled substance, toluene, or any
25 combination of any intoxicating liquor, drug, controlled
26 substance, or toluene, in such a condition that he or she is unable
27 to exercise care for his or her own safety or the safety of others, or
28 by reason of his or her being under the influence of intoxicating
29 liquor, any drug, controlled substance, toluene, or any
30 combination of any intoxicating liquor, drug, or toluene, interferes
31 with or obstructs or prevents the free use of any street, sidewalk,
32 or other public way.

33 (g) When a person has violated subdivision (f) of this section,
34 a peace officer, if he or she is reasonably able to do so, shall place
35 the person, or cause him or her to be placed, in civil protective
36 custody. The person shall be taken to a facility, designated
37 pursuant to Section 5170 of the Welfare and Institutions Code, for
38 the 72-hour treatment and evaluation of inebriates. A peace officer
39 may place a person in civil protective custody with that kind and
40 degree of force which would be lawful were he or she effecting an



1 arrest for a misdemeanor without a warrant. No person who has
2 been placed in civil protective custody shall thereafter be subject
3 to any criminal prosecution or juvenile court proceeding based on
4 the facts giving rise to this placement. This subdivision shall not
5 apply to the following persons:

6 (1) Any person who is under the influence of any drug, or under
7 the combined influence of intoxicating liquor and any drug.

8 (2) Any person who a peace officer has probable cause to
9 believe has committed any felony, or who has committed any
10 misdemeanor in addition to subdivision (f) of this section.

11 (3) Any person who a peace officer in good faith believes will
12 attempt escape or will be unreasonably difficult for medical
13 personnel to control.

14 (h) Who loiters, prowls, or wanders upon the private property
15 of another, at any time, without visible or lawful business with the
16 owner or occupant. As used in this subdivision, “loiter” means to
17 delay or linger without a lawful purpose for being on the property
18 and for the purpose of committing a crime as opportunity may be
19 discovered.

20 (i) Who, while loitering, prowling, or wandering upon the
21 private property of another, at any time, peeks in the door or
22 window of any inhabited building or structure, without visible or
23 lawful business with the owner or occupant.

24 (j) Who lodges in any building, structure, vehicle, or place,
25 whether public or private, without the permission of the owner or
26 person entitled to the possession or in control of it.

27 (k) (1) Any person who looks through a hole or opening, into,
28 or otherwise views, by means of any instrumentality, including,
29 but not limited to, a periscope, telescope, binoculars, camera,
30 motion picture camera, or camcorder, the interior of a *bedroom*,
31 bathroom, changing room, fitting room, dressing room, or tanning
32 booth, or the interior of any other area in which the occupant has
33 a reasonable expectation of privacy, with the intent to invade the
34 privacy of a person or persons inside. This subdivision shall not
35 apply to those areas of a private business used to count currency
36 or other negotiable instruments.

37 (2) Any person who uses a concealed camcorder, motion
38 picture camera, or photographic camera of any type, to secretly
39 videotape, film, photograph, or record by electronic means,
40 another, identifiable person under or through the clothing being

1 worn by that other person, for the purpose of viewing the body of,
2 or the undergarments worn by, that other person, without the
3 consent or knowledge of that other person, with the intent to
4 arouse, appeal to, or gratify the lust, passions, or sexual desires of
5 that person and invade the privacy of that other person, under
6 circumstances in which the other person has a reasonable
7 expectation of privacy.

8 (3) (A) *Any person who uses a concealed camcorder, motion*
9 *picture camera, or photographic camera of any type, to secretly*
10 *videotape, film, photograph, or record by electronic means,*
11 *another, identifiable person who may be in a state of full or partial*
12 *undress, for the purpose of viewing the body of, or the*
13 *undergarments worn by, that other person, without the consent or*
14 *knowledge of that other person, in the interior of a bedroom,*
15 *bathroom, changing room, fitting room, dressing room, or tanning*
16 *booth, or the interior of any other area in which that other person*
17 *has a reasonable expectation of privacy, with the intent to invade*
18 *the privacy of that other person.*

19 (B) *Neither of the following is a defense to the crime specified*
20 *in this paragraph:*

21 (i) *The defendant was a cohabitant, landlord, tenant, cotenant,*
22 *employer, employee, or business partner or associate of the victim,*
23 *or an agent of any of these.*

24 (ii) *The victim was not in a state of full or partial undress.*

25 (l) In any accusatory pleading charging a violation of
26 subdivision (b), if the defendant has been once previously
27 convicted of a violation of that subdivision, the previous
28 conviction shall be charged in the accusatory pleading. If the
29 previous conviction is found to be true by the jury, upon a jury trial,
30 or by the court, upon a court trial, or is admitted by the defendant,
31 the defendant shall be imprisoned in a county jail for a period of
32 not less than 45 days and shall not be eligible for release upon
33 completion of sentence, on probation, on parole, on work furlough
34 or work release, or on any other basis until he or she has served a
35 period of not less than 45 days in a county jail. In all cases in which
36 probation is granted, the court shall require as a condition thereof
37 that the person be confined in a county jail for at least 45 days. In
38 no event does the court have the power to absolve a person who
39 violates this subdivision from the obligation of spending at least
40 45 days in confinement in a county jail.

In any accusatory pleading charging a violation of subdivision (b), if the defendant has been previously convicted two or more times of a violation of that subdivision, each such previous conviction shall be charged in the accusatory pleading. If two or more of these previous convictions are found to be true by the jury, upon a jury trial, or by the court, upon a court trial, or are admitted by the defendant, the defendant shall be imprisoned in a county jail for a period of not less than 90 days and shall not be eligible for release upon completion of sentence, on probation, on parole, on work furlough or work release, or on any other basis until he or she has served a period of not less than 90 days in a county jail. In all cases in which probation is granted, the court shall require as a condition thereof that the person be confined in a county jail for at least 90 days. In no event does the court have the power to absolve a person who violates this subdivision from the obligation of spending at least 90 days in confinement in a county jail.

In addition to any punishment prescribed by this section, a court may suspend, for not more than 30 days, the privilege of the person to operate a motor vehicle pursuant to Section 13201.5 of the Vehicle Code for any violation of subdivision (b) that was committed within 1,000 feet of a private residence and with the use of a vehicle. In lieu of the suspension, the court may order a person's privilege to operate a motor vehicle restricted, for not more than six months, to necessary travel to and from the person's place of employment or education. If driving a motor vehicle is necessary to perform the duties of the person's employment, the court may also allow the person to drive in that person's scope of employment.

SEC. 3. Section 647.7 of the Penal Code is amended to read:

647.7. (a) In any case in which a person is convicted of violating subdivision (i) or (k) of Section 647, the court may require counseling as a condition of probation. Any defendant so ordered to be placed in a counseling program shall be responsible for paying the expense of his or her participation in the counseling program as determined by the court. The court shall take into consideration the ability of the defendant to pay, and no defendant shall be denied probation because of his or her inability to pay.

(b) Every person who, having been convicted of violating subdivision (i) or (k) of Section 647, commits a second or subsequent violation of subdivision (i) or (k) of Section 647, shall

1 be punished by imprisonment in a county jail not exceeding one
2 year, by a fine not exceeding one thousand dollars (\$1,000), or by
3 both that fine and imprisonment, *except as provided in subdivision*
4 *(c).*

5 *(c) Every person who, having been previously convicted of*
6 *violating subdivision (i) or (k) of Section 647, commits a violation*
7 *of paragraph (3) of subdivision (k) of Section 647 regardless of*
8 *whether it is a first, second, or subsequent violation of that*
9 *paragraph, shall be punished by imprisonment in a county jail not*
10 *exceeding one year, by a fine not exceeding five thousand dollars*
11 *(\$5,000), or by both that fine and imprisonment.*

12 SEC. 4. No reimbursement is required by this act pursuant to
13 Section 6 of Article XIII B of the California Constitution for
14 certain costs that may be incurred by a local agency or school
15 district because in that regard this act creates a new crime or
16 infraction, eliminates a crime or infraction, or changes the penalty
17 for a crime or infraction, within the meaning of Section 17556 of
18 the Government Code, or changes the definition of a crime within
19 the meaning of Section 6 of Article XIII B of the California
20 Constitution.

21 However, notwithstanding Section 17610 of the Government
22 Code, if the Commission on State Mandates determines that this
23 act contains other costs mandated by the state, reimbursement to
24 local agencies and school districts for those costs shall be made
25 pursuant to Part 7 (commencing with Section 17500) of Division
26 4 of Title 2 of the Government Code. If the statewide cost of the
27 claim for reimbursement does not exceed one million dollars
28 (\$1,000,000), reimbursement shall be made from the State
29 Mandates Claims Fund.